



U.S. Department of Justice

*United States Attorney
Eastern District of New York*

EK:TAD
F.#2010R00787

271 Cadman Plaza East
Brooklyn, New York 11201

March 8, 2012

By ECF and Hand Delivery

The Honorable I. Leo Glasser
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Kerrol Florizel Bailey
Criminal Docket No. 11-789 (ILG)

Dear Judge Glasser:

The government respectfully submits this letter in advance of sentencing in the above-captioned case, scheduled for March 9, 2012. On January 13, 2012, the defendant pled guilty before Your Honor to the sole count of the Indictment, charging him with False Statement in Application for a Passport, in violation of 18 U.S.C. § 1542.

The government agrees with the Guidelines calculation of 8 to 13 months' imprisonment and the description of the offense conduct set forth in the February 17, 2012 Presentence Investigation Report ("PSR").

In his March 2, 2012 sentencing submission, the defendant argues that he should receive a non-Guidelines sentence in light of his purported lack of prior criminal history (until 2010, when he was arrested on state drug charges, and then transferred to federal custody for the instant offense), and his acceptance of responsibility. However, the defendant does have a recent criminal history - his state drug conviction from 2010 (PSR ¶¶ 16-17) - and his acceptance of responsibility already has been accounted for in his Guidelines calculation. See PSR ¶ 13.

A Guidelines sentence is appropriate here. Such a sentence would reflect the seriousness of the offense, promote respect for the law and provide adequate deterrence to further criminal conduct. See 18 U.S.C. § 3553(a)(2)(A)&(B).

Finally, the government notes one non-substantive error in the PSR. On page 7, paragraph 26, the word "financial" should read "financially."

For the foregoing reasons, the Court should sentence the defendant within the applicable advisory guidelines range of 8 to 13 months' imprisonment.

Respectfully submitted,

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